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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,571	04/20/2004	Steven E. Bromberg	340.182A	5270
27019	7590	06/27/2006	EXAMINER	
THE CLOROX COMPANY P.O. BOX 24305 OAKLAND, CA 94623-1305			NGUYEN, NGOC YEN M	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,571

Applicant(s)

BROMBERG ET AL.

Examiner

Ngoc-Yen M. Nguyen

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. A step of *using* the product solution fails to further limit a process of *making* the product. If claim 20 would be converted to an independent claim, it may be subjected to a restriction requirement.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kojima (5,447,969).

Kojima '969 discloses a solution obtained by diluting sodium hypochlorite solution with ion-exchanged water to have an available chlorine concentration of 3 ppm, and adjusting the pH to 7 with a buffer solution of citric acid and sodium hydrogen phosphonate (note column 6, lines 31-37).

The process for obtaining a dilute hypochlorite as disclosed in Kojima '969 anticipates the claimed process.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima '969, optionally in view of Camper et al (2002/0114850).

Kojima '969 discloses a process for obtaining a dilute hypochlorite solution as mentioned in the above rejection.

The pH of 7 as disclosed in Kojima '969 is well within the claimed ranges in the instant claims 4-7, 8. For the instant claim 7, since the claimed range of "less than pH 7" can be 6.99, which is so close to the disclosed value of 7 in Kojima '969, no patentable difference is seen.

Since deionized water is used in Kojima '969 to form the dilute acid, the metal impurities level in the dilute hypochlorite solution in Kojima '969 would inherently be low as required in the instant claim 19.

For other methods for purify the water used to dilute the hypochlorite solution, beside the ion-exchanging method disclosed in Kojima '969, or the other compounds to adjust the pH for the dilute hypochlorite solution, it would have been obvious to one skilled in the art to use any known available means or compounds as long as a dilute hypochlorite solution with the desired pH as disclosed in Kojima '969 can be obtained.

Kojima '969 does not specifically disclose the concentration of the starting hypochlorite solution. However, it would have been obvious to one skilled in the art to use any commercial available hypochlorite solution as long as it can be diluted down to give the desired level for the available chlorine for the process of Kojima '969.

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Optionally, Camper '850 can be applied to teach that alkali metal hypochlorite solution can be used to treat infections, arthritis, allergies, etc. (note paragraph (0023)).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner is currently on Part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Stanley Silverman can be reached on (571) 272-1358. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 or (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed (571) 272-1700.


Ngoc-Yen M. Nguyen
Primary Examiner
Art Unit 1754

nmn
June 21, 2006